

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2007-0772-MWD-E **TCEQ ID:** RN101519635 **CASE NO.:** 33494  
**RESPONDENT NAME:** Brookeland Fresh Water Supply District

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Forest Hills Plant, located approximately 400 feet south of Recreational Road 255 and approximately five miles west of the intersection of Recreational Road 255 and U.S. Highway 96, Jasper County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment facility</p> <p><b>SMALL BUSINESS:</b>    <input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on October 22, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Samuel Short, Enforcement Division, 3, MC 219, (512) 239-5363; Mr. Steve Lopez, Enforcement Division, MC 219, (512) 239-1896  <b>Respondent:</b> Mr. Jerry Shands, General Manager, Brookeland Fresh Water Supply District, 4161 Rural Route 255 West, Sam Rayburn, Texas 75951  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Record Review Relating to this Case:</b> March 20, 2007</p> <p><b>Date of NOE Relating to this Case:</b> April 26, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine record review for compliance with the water quality program. One significant program violation was observed.</p> <p><b>WATER</b></p> <p>Failure to comply with the permitted effluent limits [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0010998001, Final Effluent Limitations and Monitoring Requirements No. 1 and 2].</p>	<p><b>Total Assessed:</b> \$7,770</p> <p><b>Total Deferred:</b> \$1,554  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$6,216</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that Brookeland made adjustments to the chlorinator on July 31, 2006, revised the sludge management plan on December 15, 2006, and returned to compliance with the permitted effluent limits on February 28, 2007.</p>

Additional ID No(s): WQ0010998001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 26, 2007

**TCEQ**  
**DATES**

Assigned 14-May-2007  
PCW 16-May-2007

Screening 15-May-2007

EPA Due

## RESPONDENT/FACILITY INFORMATION

Respondent Brookeland Fresh Water Supply District  
Reg. Ent. Ref. No. RN101519635  
Facility/Site Region 10-Beaumont Major/Minor Source Minor

## CASE INFORMATION

Enf./Case ID No. 33494 No. of Violations 1  
Docket No. 2007-0772-MWD-E Order Type 1660  
Media Program(s) Water Quality Enf. Coordinator Samuel Short  
Multi-Media EC's Team Enforcement Team 3  
Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)**

Subtotal 1 \$3,000

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 187% Enhancement Subtotals 2, 3, & 7 \$5,610

Notes

A 187% enhancement is recommended for having 31 self reported effluent violations, two NOV's for the same or similar violations, one NOV for non-similar violations and one Agreed Order with denial within the last five years.

Culpability

No

0% Enhancement

Subtotal 4 \$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

25% Reduction

Subtotal 5 \$750

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary  
Ordinary X  
N/A (mark with x)

Notes

The Respondent returned to compliance with the permitted effluent limits on February 28, 2007.

0% Enhancement\*

Subtotal 6 \$0

Total EB Amounts \$112  
Approx. Cost of Compliance \$3,000

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7**

Final Subtotal \$7,860

**OTHER FACTORS AS JUSTICE MAY REQUIRE**

-1%

Adjustment -\$90

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Recommended reduction in the penalty to prevent double-enhancement of the penalty amount for same violations that were not self-reported.

Final Penalty Amount \$7,770

**STATUTORY LIMIT ADJUSTMENT**

Final Assessed Penalty \$7,770

**DEFERRAL**

20%

Reduction

Adjustment -\$1,554

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

**PAYABLE PENALTY**

\$6,216

Screening Date 15-May-2007

Docket No. 2007-0772-MWD-E

PCW

Respondent Brookeland Fresh Water Supply District

Policy Revision 2 (September 2002)

Case ID No. 33494

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN101519635

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	33	165%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 187%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

A 187% enhancement is recommended for having 31 self reported effluent violations, two NOV's for the same or similar violations, one NOV for non-similar violations and one Agreed Order with denial within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 187%

Screening Date 15-May-2007

Docket No. 2007-0772-MWD-E

PCW

Respondent Brookeland Fresh Water Supply District

Policy Revision 2 (September 2002)

Case ID No. 33494

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN101519635

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0010998001, Final Effluent Limitations and Monitoring Requirements No.1 and 2

Violation Description

Failed to comply with the permitted effluent limits as documented during a record review conducted on March 20, 2007. See attached table.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 3

184 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,000

Three quarterly events are recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$112

Violation Final Penalty Total \$7,770

This violation Final Assessed Penalty (adjusted for limits) \$7,770

## Economic Benefit Worksheet

**Respondent** Brookeland Fresh Water Supply District  
**Case ID No.** 33494  
**Reg. Ent. Reference No.** RN101519635  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$3,000	31-May-2006	28-Feb-2007	0.7	\$112	n/a	\$112

Notes for DELAYED costs

The estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. Date required is the date the noncompliance started and the final date is the date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,000

TOTAL

\$112

**Effluent Violation Table**  
 Brookeland Fresh Water Supply District  
 TPDES Permit No. WQ0010998001 (Outfall 001A)  
 Docket No. 2007-0772-MWD-E

Permitted Effluent Limits	Monitoring Period End Date				
	05/31/2006	06/30/2006	07/31/2006	09/30/2006	12/31/2006
TSS Daily Avg. 20 mg/l	C	22	C	20.3	25
TSS Single Grab Max. 65 mg/l	C	C	C	C	66
Total Chlorine Residual Monthly Max. 4.0 mg/l	8.7	C	4.9	C	C

Avg. = average	C = compliant	mg/l = milligrams per liter
Max. = maximum	TSS = Total Suspended Solids	MGD = million gallons per day





# Compliance History

Customer/Respondent/Owner-Operator:	CN600624852	Brookeland FWSD	Classification: AVERAGE	Rating: 10.25
Regulated Entity:	RN101519635	FOREST HILLS PLANT	Classification: AVERAGE	Site Rating: 10.25
ID Number(s):	WASTEWATER	PERMIT	WQ0010998001	
	WASTEWATER	PERMIT	TPDES0031283	
	WASTEWATER	PERMIT	TX0031283	
	WASTEWATER LICENSING	LICENSE	WQ0010998001	
Location:	APPROXIMATELY 400 FEET SOUTH OF RECREATIONAL ROAD 255 AND APPROXIMATELY FIVE MILES WEST OF THE INTERSECTION OF RECREATIONAL ROAD 255 AND U.S. HIGHWAY 96, JASPER COUNTY		Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	July 25, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	May 15, 2002 to May 15, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Samuel Short	Phone:	(512) 239-5363	

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 08/22/2003	ADMINORDER 2001-0519-MWD-E
Classification: Moderate	
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)	
Rqmt Prov: req 1 PERMIT	
Description: Failure to ensure all systems of collection, treatment, and disposal are properly operated and maintained. Large accumulations of sludge present.	
Classification: Moderate	
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)	
Rqmt Prov: req 1 PERMIT	
Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. No vacuum breaker on the potable water line.	
Classification: Moderate	
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)	
Rqmt Prov: req 1 PERMIT	
Description: Failure to ensure that all systems are properly operated and maintained. Clarifiers of both plants had high amount of floating grease on the surface.	
Classification: Moderate	
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)	
Rqmt Prov: req 1 PERMIT	
Description: Failure to ensure that all systems are properly operated and maintained. One of the blowers at plant 2 was not functional.	
Classification: Moderate	
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)	
Rqmt Prov: req 1 PERMIT	
Description: Failure to ensure that all systems are properly operated and maintained. The decant from the aerated digester at plant 2 was not functional.	
Classification: Moderate	
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov: prov sect II F PERMIT	
Description: Failure to submit annual sludge report to TNRCC Reg Office and D/A Team of the Enforcement Division by 9/1 of each yr.	

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(19)

Rqmt Prov: cond 1a PERMIT

Description: Failure to submit accurate information in a report to the exec director. DO minimum was incorrectly reported.

Classification: Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)

Rqmt Prov: req 2 PERMIT

Description: Failure to comply with test procedures specified in 30TAC319.11 - 319.12. Effluent pH result being reported on MERs are results reported by contract lab.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(A)

Rqmt Prov: req 2 PERMIT

Description: Failure to accurately calculate loading measurements for effluent BOD and TSS. Incorrectly calculating the BOD and TSS effluent loading values.

Classification: Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.11(a)

Rqmt Prov: req 2 PERMIT

Description: Failure to comply with test procedures specified in 30TAC319.11 - 319.12. No manganese interference correction was being run on the effluent chlorine residual.

Classification: Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.11(a)

Rqmt Prov: req 2 PERMIT

Description: Failure to comply with test procedures specified in 30TAC319.11 - 319.12. Sample storage refrigerator did not have thermometer submerged in water present to monitor the temp that the samples are stored at prior to being shipped to the contract lab.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: req 1 & 2 PERMIT

Description: Failure to meet permit effluent limitations for TSS and CL2.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: req 1 PERMIT

Description: Failure to meet permitted effluent limitation for TSS grab.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	05/23/2002	(177504)
2	06/13/2002	(177507)
3	07/08/2002	(177492)
4	08/22/2002	(177510)
5	10/10/2002	(177516)
6	10/25/2002	(177513)
7	11/12/2002	(177519)
8	11/18/2002	(177523)
9	01/06/2003	(177527)
10	01/31/2003	(177531)
11	02/24/2003	(355364)
12	02/24/2003	(177497)
13	03/24/2003	(177495)
14	04/07/2003	(177501)
15	05/12/2003	(31004)
16	05/22/2003	(303579)
17	07/23/2003	(303580)
18	07/23/2003	(303581)
19	09/19/2003	(303582)
20	09/19/2003	(303583)
21	10/24/2003	(303585)
22	11/20/2003	(303586)
23	12/22/2003	(303587)
24	12/29/2003	(258555)

25	01/20/2004	(303588)
26	02/20/2004	(303576)
27	03/22/2004	(303577)
28	04/12/2004	(303578)
29	05/20/2004	(355365)
30	06/21/2004	(355366)
31	07/19/2004	(355367)
32	09/15/2004	(355369)
33	09/28/2004	(355368)
34	10/10/2004	(355370)
35	11/15/2004	(383717)
36	11/16/2004	(339758)
37	12/20/2004	(383718)
38	01/18/2005	(383719)
39	02/14/2005	(421564)
40	03/14/2005	(421565)
41	04/15/2005	(421566)
42	05/18/2005	(421567)
43	06/16/2005	(421568)
44	07/26/2005	(442547)
45	09/13/2005	(442549)
46	09/19/2005	(442548)
47	10/20/2005	(471667)
48	11/21/2005	(471668)
49	12/20/2005	(471669)
50	01/17/2006	(471670)
51	02/21/2006	(471665)
52	03/20/2006	(471666)
53	04/14/2006	(500231)
54	05/15/2006	(500232)
55	05/16/2006	(459856)
56	06/12/2006	(500233)
57	07/20/2006	(522337)
58	08/24/2006	(522338)
59	09/25/2006	(513388)
60	10/18/2006	(547020)
61	11/13/2006	(547021)
62	12/18/2006	(547022)
63	01/29/2007	(547023)
64	05/07/2007	(554451)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date	05/31/2002	(177507)		
Self Report?	YES		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	06/30/2002	(177510)		
Self Report?	YES		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	08/31/2002	(177516)		
Self Report?	YES		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	09/30/2002	(177519)		
Self Report?	YES		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	10/31/2002	(177523)		
Self Report?	YES		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	11/30/2002	(177527)		
Self Report?	YES		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	12/31/2002	(177531)		
Self Report?	YES		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			

TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter		
Date	01/31/2003	(355364)	
Self Report?	YES		Classificatio Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	02/28/2003	(177495)	
Self Report?	YES		Classificatio Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	03/31/2003	(177501)	
Self Report?	YES		Classificatio Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	05/12/2003	(31004)	
Self Report?	NO		Classificatio Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Rqmt Prov:	OP 10998-001		
Description:	Failure by the permittee to comply with the permitted effluent limitation for Biological Oxygen Demand (BOD) single grab.		
Self Report?	NO		Classificatio Moderate
Citation:	30 TAC Chapter 325, SubChapter B 325.106[G]		
Rqmt Prov:	OP 10998-001		
Description:	Failure by the permittee to ensure that all personnel involved in process control activities hold a valid wastewater license.		
Self Report?	NO		Classificatio Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Rqmt Prov:	OP 10998-001		
Description:	Failure by the permittee to notify the TCEQ regional office and the Enforcement Division, within 5 days of becoming aware, for effluent violations which deviated from the permitted effluent limitation by more than 40%.		
Self Report?	NO		Classificatio Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.126(a)		
Rqmt Prov:	OP 10998-001		
Description:	Failure by the permittee to submit an engineering and financial planning report to the Commission after exceeding 75% of the permitted flow for three consecutive months.		
Self Report?	NO		Classificatio Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Rqmt Prov:	OP 10998-001		
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Date	05/31/2003	(303580)	
Self Report?	YES		Classificatio Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	06/30/2003	(303581)	
Self Report?	YES		Classificatio Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	01/31/2004	(303576)	
Self Report?	YES		Classificatio Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	02/29/2004	(303577)	
Self Report?	YES		Classificatio Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	03/31/2004	(303578)	
Self Report?	YES		Classificatio Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	05/31/2004	(355366)	
Self Report?	YES		Classificatio Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	06/30/2004	(355367)	
Self Report?	YES		Classificatio Moderate

Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	11/16/2004 (339758)		
Self Report?	NO	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Rqmt Prov:	OP 10998-001		
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classificatio	Minor
Rqmt Prov:	PERMIT OpR 1		
Description:	Failure by Brookeland Fresh Water Supply District to properly maintain collection system lift stations.		
Self Report?	NO	Classificatio	Minor
Rqmt Prov:	PERMIT OpR 1		
Description:	Failure by Brookeland Fresh Water Supply District to properly maintain facility grounds.		
Self Report?	NO	Classificatio	Moderate
Rqmt Prov:	PERMIT EL&MR 1		
Description:	Failure by Brookeland Fresh Water Supply District to comply with permitted effluent flow limitations.		
Date	11/30/2004 (383718)		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	12/31/2004 (383719)		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	01/31/2005 (421564)		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	02/28/2005 (421565)		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	03/31/2005 (421566)		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	06/30/2005 (442547)		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	07/31/2005 (442548)		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	10/31/2005 (471668)		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	12/31/2005 (471670)		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	05/31/2006 (500233)		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	06/30/2006 (522337)		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		

Date	07/31/2006	(522338)		
Self Report?	YES		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	08/25/2006	(513388)		
Self Report?	NO		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)			
Rqmt Prov:	PERMIT req 1			
Description:	Failure to ensure all systems of collection, treatment, and disposal are properly operated and maintained. Large accumulations of sludge present.			
Self Report?	NO		Classificatio	Major
Citation:	2D TWC Chapter 26, SubChapter A 26.121(c)			
Rqmt Prov:	ORDER AO 2001-0519-MWD-E, OP 2d(i)			
Description:	Failure to comply with Ordering Provision No. 2d(i), of Agreed Order Docket Number 2001-0519-MWD-E, effective 08/22/2003.			
Date	09/30/2006	(547020)		
Self Report?	YES		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	12/31/2006	(547023)		
Self Report?	YES		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
BROOKELAND FRESH WATER  
SUPPLY DISTRICT  
RN101519635**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2007-0772-MWD-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Brookeland Fresh Water Supply District ("Brookeland") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Brookeland appear before the Commission and together stipulate that:

1. Brookeland owns and operates a wastewater treatment facility located approximately 400 feet south of Recreational Road 255 and approximately five miles west of the intersection of Recreational Road 255 and U.S. Highway 96 in Jasper County, Texas (the "Facility").
2. Brookeland has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and Brookeland agree that the Commission has jurisdiction to enter this Agreed Order, and that Brookeland is subject to the Commission's jurisdiction.
4. Brookeland received notice of the violations alleged in Section II ("Allegations") on or about May 1, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Brookeland of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seven Thousand Seven Hundred Seventy Dollars (\$7,770) is assessed by the Commission in settlement of the violations alleged in Section II





("Allegations"). Brookeland has paid Six Thousand Two Hundred Sixteen Dollars (\$6,216) of the administrative penalty and One Thousand Five Hundred Fifty-Four Dollars (\$1,554) is deferred contingent upon Brookeland's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Brookeland fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Brookeland to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Brookeland have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Brookeland made adjustments to the chlorinator on July 31, 2006, revised the sludge management plan on December 15, 2006 and returned to compliance with the permitted effluent limits on February 28, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Brookeland has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, Brookeland is alleged to have failed to comply with the permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0010998001, Final Effluent Limitations and Monitoring Requirements No. 1 and 2, as documented during a record review conducted on March 20, 2007, as indicated in the table below.



Effluent Violation Table					
Permitted Effluent Limits	Monitoring Period End Date				
	05/31/2006	06/30/2006	07/31/2006	09/30/2006	12/31/2006
TSS Daily Avg. 20 mg/l	C	22	C	20.3	25
TSS Single Grab Max. 65 mg/l	C	C	C	C	66
Total Chlorine Residual Monthly Max. 4.0 mg/l	8.7	C	4.9	C	C

Avg. = average	C = compliant	mg/l = milligrams per liter
Max. = maximum	TSS = Total Suspended Solids	MGD = million gallons per day

### III. DENIALS

Brookeland generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Brookeland pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Brookeland's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Brookeland Fresh Water Supply District, Docket No. 2007-0772-MWD-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon Brookeland. Brookeland is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Brookeland in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.



5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Brookeland, or three days after the date on which the Commission mails notice of the Order to Brookeland, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
For the Executive Director

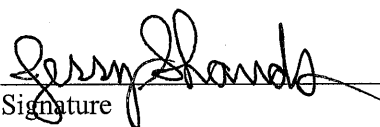
10/9/07  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

8-9-07  
Date

Jerry Shands  
Name (Printed or typed)  
Authorized Representative of  
Brookeland Fresh Water Supply District

General Manager  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

10-10-10

10-10-10

10-10-10

10-10-10

10-10-10

10-10-10

10-10-10

10-10-10

10-10-10

10-10-10

10-10-10

10-10-10